

GARMAN TURNER GORDON LLP  
GREGORY E. GARMAN, ESQ.  
Nevada Bar No. 6654  
Email: ggarman@gtg.legal  
TALITHA GRAY KOZLOWSKI, ESQ.  
Nevada Bar No. 9040  
Email: tgray@gtg.legal  
TERESA M. PILATOWICZ, ESQ.  
Nevada Bar No. 9605  
Email: tpilatowicz@gtg.legal  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
Tel: (725) 777-3000  
*Attorneys for EB Holdings II, Inc.*

K&L GATES LLP  
THOMAS E. BIRSIC, ESQ.  
(Admitted *Pro Hac Vice*)  
Email: thomas.birsic@klgates.com  
PAUL C. FUENER, ESQ.  
(Admitted *Pro Hac Vice*)  
Email: paul.fuener@klgates.com  
K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, Pennsylvania 15222-2613  
Tel: (412) 355-6500

GHANDI DEETER BLACKHAM  
SHARA L. LARSON, ESQ.  
Nevada Bar No. 7786  
Email: shara@ghandilaw.com  
725 S. 8th St., Suite 100  
Las Vegas, Nevada 89101  
Tel: (702) 878-1115  
*Attorneys for QXH II, Inc.*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

In re:

EB HOLDINGS II, INC.,

Debtor.

EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE  
COMPANY, CONTINENTAL  
CASUALTY COMPANY, FEDERAL  
INSURANCE COMPANY, BEAZLEY  
INSURANCE COMPANY, INC., AXIS  
INSURANCE COMPANY, ACE  
AMERICAN INSURANCE COMPANY,  
IRONSHORE INDEMNITY INC.,  
FREEDOM SPECIALTY INSURANCE  
COMPANY, ARCH INSURANCE  
COMPANY and ASPEN SPECIALTY  
INSURANCE COMPANY,

Defendants.

Chapter 11

Case No.: BK-S-19-16364-MKN

Adv. Pro. No. 20-01010-MKN

**Case No. 2:20-cv-00461-KJD-BNW**

**STIPULATION WITHDRAWING ACE  
AMERICAN INSURANCE COMPANY  
FROM THE PENDING MOTION TO  
WITHDRAW THE REFERENCE**

1 IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,  
 2 Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,  
 3 Inc. (“QXH II,” and together with EBH, the “Insureds”), by and through its counsel, the law firms  
 4 of K&L Gates LLP and Ghandi Deeter Blackham, and ACE American Insurance Company  
 5 (“ACE”), by and through its counsel, the law firm of Lewis Brisbois Bisgaard & Smith LLP, as  
 6 follows:

7 WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the  
 8 United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), thereby  
 9 commencing chapter 11 case no. 19-16364-MKN.

10 WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the Bankruptcy  
 11 Court, thereby commencing adversary proceeding no. 20-01010-MKN (the “Adversary”).

12 WHEREAS, on March 10, 2020, ACE filed *Motion by Defendants Federal Insurance*  
 13 *Company and Ace American Insurance Company to Withdraw Reference* [ECF No. 1] (the  
 14 “Motion to Withdraw the Reference”), thereby commencing District Court case number 2:20-cv-  
 15 00492-APG-NJK.

16 WHEREAS, on March 20, 2020, an *Order Consolidating Cases* [ECF No. 6] was entered  
 17 in District Court case number 2:20-cv-00492-APG-NJK consolidating District Court case number  
 18 2:20-cv-00492-APG-NJK with lead District Court case number 2:20-cv-00461-KJD-BNW.

19 WHEREAS, on April 29, 2018, the *Stipulation Dismissing Defendant ACE American*  
 20 *Insurance Company Without Prejudice and Withdrawing Pending Motions* (the “Stipulation”) was  
 21 filed in the Adversary. The Stipulation, attached hereto as Exhibit 1, provided for ACE’s  
 22 withdrawal from the Motion to Withdraw the Reference and a related pleading and for the  
 23 dismissal of the Insureds’ claims against ACE *without prejudice*.

24 WHEREAS, the Stipulation was approved by entry of the Order of the Bankruptcy Court  
 25 on April 29, 2020 (the “Dismissal Order”). A copy of the Dismissal Order is attached hereto as  
 26 Exhibit 2.

27 ...

28 ...

1 NOW, THEREFORE, the Insureds and ACE hereby stipulate and agree that ACE  
2 withdraws from the Motion to Withdraw the Reference, with the parties to bear their own fees and  
3 costs.

4 Dated this 30th day of April, 2020.

5 GARMAN TURNER GORDON LLP

K&L GATES LLP

6  
7 By: /s/ Talitha Gray Kozlowski  
8 GREGORY E. GARMAN, ESQ.  
9 TALITHA GRAY KOZLOWSKI, ESQ.  
10 TERESA M. PILATOWICZ, ESQ.  
11 7251 Amigo Street, Suite 210  
12 Las Vegas, Nevada 89119  
13 *Attorneys for EB Holdings II, Inc.*


By: /s/ Paul C. Fuener  
THOMAS E. BIRSIC, ESQ.  
PAUL C. FUENER, ESQ.  
K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, Pennsylvania 15222

GHANDI DEETER BLACKHAM  
SHARA L. LARSON, ESQ.  
725 S. 8<sup>th</sup> Street, Suite 100  
Las Vegas, Nevada 89101  
*Attorneys for QXH II, Inc.*

14 LEWIS BRISBOIS BISGAARD & SMITH  
15 LLP

16 By: /s/ Jeffrey D. Olster  
17 JEFFREY D. OLSTER, ESQ.  
18 6835 S. Rainbow Blvd., Suite 600  
19 Las Vegas, Nevada 89118  
20 *Attorneys for Federal Insurance*  
21 *Company and ACE American Insurance*

22 **IT IS SO ORDERED**

23  
24 

25 **UNITED STATES DISTRICT JUDGE**

26 **DATED: 5/1/2020**  
27  
28

# **EXHIBIT 1**

# **EXHIBIT 1**

GARMAN TURNER GORDON LLP  
 GREGORY E. GARMAN, ESQ.  
 Nevada Bar No. 6654  
 Email: ggarman@gtg.legal  
 TALITHA GRAY KOZLOWSKI, ESQ.  
 Nevada Bar No. 9040  
 Email: tgray@gtg.legal  
 TERESA M. PILATOWICZ, ESQ.  
 Nevada Bar No. 9605  
 Email: tpilatowicz@gtg.legal  
 7251 Amigo Street, Suite 210  
 Las Vegas, Nevada 89119  
 Tel: (725) 777-3000  
*Attorneys for EB Holdings II, Inc.*

K&L GATES LLP  
 THOMAS E. BIRSIC, ESQ.  
 (Admitted *Pro Hac Vice*)  
 Email: thomas.birsic@klgates.com  
 PAUL C. FUENER, ESQ.  
 (Admitted *Pro Hac Vice*)  
 Email: paul.fuener@klgates.com  
 K&L Gates Center  
 210 Sixth Avenue  
 Pittsburgh, Pennsylvania 15222-2613  
 Tel: (412) 355-6500

GHANDI DEETER BLACKHAM  
 SHARA L. LARSON, ESQ.  
 Nevada Bar No. 7786  
 Email: shara@ghandilaw.com  
 725 S. 8th St., Suite 100  
 Las Vegas, Nevada 89101  
 Tel: (702) 878-1115  
*Attorneys for QXH II, Inc.*

**UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF NEVADA**

In re:

EB HOLDINGS II, INC.,

Debtor.

Chapter 11

Case No.: BK-S-19-16364-MKN

EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE  
 COMPANY, CONTINENTAL  
 CASUALTY COMPANY, FEDERAL  
 INSURANCE COMPANY, BEAZLEY  
 INSURANCE COMPANY, INC., AXIS  
 INSURANCE COMPANY, ACE  
 AMERICAN INSURANCE COMPANY,  
 IRONSHORE INDEMNITY INC.,  
 FREEDOM SPECIALTY INSURANCE  
 COMPANY, ARCH INSURANCE  
 COMPANY and ASPEN SPECIALTY  
 INSURANCE COMPANY,

Defendants.

Adv. Pro. No. 20-01010-MKN

**STIPULATION DISMISSING  
 DEFENDANT ACE AMERICAN  
 INSURANCE COMPANY WITHOUT  
 PREJUDICE AND WITHDRAWING  
 PENDING MOTIONS**

IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II, Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II, Inc. (“QXH II,” and together with EBH, the “Insureds”), by and through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and ACE American Insurance Company (“ACE”), by and through its counsel, the law firm of Lewis Brisbois Bisgaard & Smith LLP, as follows:

WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the District of Nevada, thereby commencing chapter 11 case no. 19-16364-MKN.

WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the United States Bankruptcy Court for the District of Nevada, thereby commencing this adversary proceeding, adversary no. 20-01010-MKN (the “Adversary”).

WHEREAS, on March 26, 2020, ACE filed its joinder [ECF No. 120] (the “Joinder”) to Defendant Arch Insurance Company’s *Amended Notice of Motion and Motion to Dismiss for Failure to State a Claim and Lack of Subject Matter Jurisdiction and Personal Jurisdiction; Memorandum of Point and Authorities in Support Thereof* [ECF No. 115].

WHEREAS, on March 9, 2020, ACE filed its *Motion by Defendants Federal Insurance Company and Ace American Insurance Company to Withdraw Reference* [ECF No. 63] (the “Motion to Withdraw the Reference”), thereby commencing District Court case number 2:20-cv-00492-APG-NJK.

WHEREAS, on March 20, 2020, an *Order Consolidating Cases* [ECF No. 6] was entered in District Court case number 2:20-cv-00492-APG-NJK consolidating District Court case number 2:20-cv-00492-APG-NJK with lead District Court case number 2:20-cv-00461-KJD-BNW.<sup>1</sup>

...

...

<sup>1</sup> A similar stipulated order is being filed in case number 2:20-cv-00461-KDJ-BNW, pending in the United States District Court for the District of Nevada.

WHEREAS, the Insureds and ACE have agreed to dismiss ACE from the Adversary *without prejudice* and to vacate all pending matters by and between them, with each party to bear its own attorneys' fees and costs.

WHEREAS, for the avoidance of doubt, this Stipulation does not withdraw any pleadings filed by Federal Insurance Company or dismiss Federal Insurance Company from the Adversary.

NOW, THEREFORE, subject to entry of an Order approving this Stipulation, the Insureds and ACE hereby stipulate and agree as follows:

1. ACE withdraws from the Joinder [ECF No. 120] and Motion to Withdraw the Reference [ECF No. 63];

2. The Insureds' claims against ACE filed in this Adversary are dismissed *without prejudice*;

3. The Insureds and ACE shall each bear their own attorneys' fees and costs incurred to date with respect to the Adversary; and

4. This Stipulation does not dismiss Federal from the Adversary or withdraw the pleadings filed by Federal.

Dated this 29th day of April, 2020.

GARMAN TURNER GORDON LLP

K&L GATES LLP

By: /s/ Talitha Gray Kozlowski  
GREGORY E. GARMAN, ESQ.  
TALITHA GRAY KOZLOWSKI, ESQ.  
TERESA M. PILATOWICZ, ESQ.  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for EB Holdings II, Inc.*

By: /s/ Paul C. Fuener  
THOMAS E. BIRSIC, ESQ.  
PAUL C. FUENER, ESQ.  
K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, Pennsylvania 15222

GHANDI DEETER BLACKHAM  
SHARA L. LARSON, ESQ.  
725 S. 8<sup>th</sup> Street, Suite 100  
Las Vegas, Nevada 89101  
*Attorneys for QXH II, Inc.*

1 LEWIS BRISBOIS BISGAARD & SMITH  
2 LLP

3  
4 By: /s/ Jeffrey D. Olster  
JEFFREY D. OLSTER, ESQ.  
5 6835 S. Rainbow Blvd., Suite 600  
Las Vegas, Nevada 89118  
6 *Attorneys for Federal Insurance*  
*Company and ACE American Insurance*



# **EXHIBIT 2**

# **EXHIBIT 2**



Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
April 29, 2020

GARMAN TURNER GORDON LLP  
GREGORY E. GARMAN, ESQ.  
Nevada Bar No. 6654  
Email: ggarman@gtg.legal  
TALITHA GRAY KOZLOWSKI, ESQ.  
Nevada Bar No. 9040  
Email: tgray@gtg.legal  
TERESA M. PILATOWICZ, ESQ.  
Nevada Bar No. 9605  
Email: tpilatowicz@gtg.legal  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
Tel: (725) 777-3000  
*Attorneys for EB Holdings II, Inc.*

K&L GATES LLP  
THOMAS E. BIRSIC, ESQ.  
(Admitted *Pro Hac Vice*)  
Email: thomas.birsic@klgates.com  
PAUL C. FUENER, ESQ.  
(Admitted *Pro Hac Vice*)  
Email: paul.fuener@klgates.com  
K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, Pennsylvania 15222-2613  
Tel: (412) 355-6500

GHANDI DEETER BLACKHAM  
SHARA L. LARSON, ESQ.  
Nevada Bar No. 7786  
Email: shara@ghandilaw.com  
725 S. 8th St., Suite 100  
Las Vegas, Nevada 89101  
Tel: (702) 878-1115  
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**UNITED STATES BANKRUPTCY COURT  
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In re:

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Chapter 11

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EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE  
COMPANY, CONTINENTAL  
CASUALTY COMPANY, FEDERAL  
INSURANCE COMPANY, BEAZLEY  
INSURANCE COMPANY, INC., AXIS

Adv. Pro. No. 20-01010-MKN

**ORDER DISMISSING DEFENDANT ACE  
AMERICAN INSURANCE COMPANY  
WITHOUT PREJUDICE AND  
WITHDRAWING PENDING MOTIONS**

INSURANCE COMPANY, ACE  
 AMERICAN INSURANCE COMPANY,  
 IRONSHORE INDEMNITY INC.,  
 FREEDOM SPECIALTY INSURANCE  
 COMPANY, ARCH INSURANCE  
 COMPANY and ASPEN SPECIALTY  
 INSURANCE COMPANY,

Defendants.

Plaintiffs EB Holdings II, Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II, Inc. (“QXH II,” and together with EBH, the “Insureds”), by and through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and ACE American Insurance Company (“ACE”), by and through its counsel, the law firm of Lewis Brisbois Bisgaard & Smith LLP, entered into that certain *Stipulation to Dismiss Ace American Insurance Company Without Prejudice and Withdrawing Pending Motions* (the “Stipulation”).<sup>1</sup> Good cause appearing therefore;

**IT IS HEREBY ORDERED** that the Stipulation is approved in its entirety.

**IT IS FURTHER ORDERED** that the Insureds’ claims against ACE filed in this Adversary are dismissed *without prejudice*.

**IT IS FURTHER ORDERED** that the Insureds and ACE shall each bear their own attorneys’ fees and costs incurred to date with respect to the Adversary.

**IT IS FURTHER ORDERED** that ACE withdraws from: (a) the Joinder jointly filed on behalf of ACE and related insurer-defendant Federal Insurance Company (“Federal”) [ECF No. 120]; and (b) the Motion to Withdraw the Reference jointly filed on behalf of ACE and Federal [ECF No. 63].

**IT IS FURTHER ORDERED** that this Order does not dismiss Federal from the Adversary or withdraw the pleadings filed by Federal.

**IT IS SO ORDERED.**

<sup>1</sup> All capitalized, undefined terms shall have the meanings ascribed to them in the Stipulation.

GARMAN TURNER GORDON LLP

K&L GATES LLP

By: /s/ Talitha Gray Kozlowski  
GREGORY E. GARMAN, ESQ.  
TALITHA GRAY KOZLOWSKI, ESQ.  
TERESA M. PILATOWICZ, ESQ.  
7251 Amigo Street, Suite 210  
Las Vegas, Nevada 89119  
*Attorneys for EB Holdings II, Inc.*

By: /s/ Paul C. Fuener  
THOMAS E. BIRSIC, ESQ.  
PAUL C. FUENER, ESQ.  
K&L Gates Center  
210 Sixth Avenue  
Pittsburgh, Pennsylvania 15222

GHANDI DEETER BLACKHAM  
SHARA L. LARSON, ESQ.  
725 S. 8<sup>th</sup> Street, Suite 100  
Las Vegas, Nevada 89101  
*Attorneys for OXH II, Inc.*

LEWIS BRISBOIS BISGAARD & SMITH  
LLP

By: /s/ Jeffrey D. Olster  
JEFFREY D. OLSTER, ESQ.  
6835 S. Rainbow Blvd., Suite 600  
Las Vegas, Nevada 89118  
*Attorneys for Federal Insurance  
Company and ACE American Insurance*